

City of Phoenix

AFE 00962
Project No. ER-500-7(7)
and
AFE 00957
Project No. ER-701-5(1)

21637

INTERGOVERNMENTAL AGREEMENT

NO. 5197
FILED WITH SECRETARY OF STATE
Date Filed 4-30-79
April 30, 1979 State

THIS AGREEMENT is made and entered into on _____ pursuant to Arizona Revised Statutes 11-951 through 11-954, by and between the State of Arizona, Arizona Department of Transportation, Highways Division, acting by and through the Director, hereinafter called STATE, and the City of Phoenix, acting by and through its City Council, hereinafter called CITY.

The description and location of the PROJECTS are as follows:

<u>Description:</u>	Project No. ER-500-7(7)
<u>Location:</u>	19th Avenue (Phoenix Urbanized Area) (19th Avenue at Salt River)
<u>Description:</u>	Project No. ER-701-5(1)
<u>Location:</u>	16th Street (Phoenix Urbanized Area) (16th Street at Salt River)

RECITALS

WHEREAS, CITY desires to obtain the services of two qualified engineering firms, hereinafter called CONSULTANTS, to perform the design work for replacement bridges at the two locations listed above, this work hereinafter called PROJECTS, and

WHEREAS, the PROJECTS are deemed to be in the interest of public safety and convenience, and

WHEREAS, CITY is empowered by Arizona Revised Statute 9-276 to enter into this Agreement, and

WHEREAS, STATE is empowered by Arizona Revised Statute 28-108 to enter into this Agreement, and

WHEREAS, CITY, in order to obtain Federal funds for the PROJECTS, is willing to provide funds to match Federal funds in the ratio required or as finally fixed and determined by the Federal Highway Administration, and

WHEREAS, Federal regulations require that state level transportation agencies act as liaison agents between the Federal agency involved and the local agency, and

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WHEREAS, STATE has no interest whatsoever in the PROJECTS, except the acquisition of Federal funds for the use and benefit of CITY by reason of Federal Law and Regulations under which funds for the PROJECTS are authorized to be expended, and

WHEREAS, STATE, being willing to act as Agent for CITY has submitted a program in the amount of \$535,000 to the Federal Highway Administration for preliminary engineering and related work, for the two bridges, which program was approved by the Federal Highway Administration on November 17, 1978.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants hereinafter to be kept by all parties, it is mutually agreed as follows:

STATE SHALL:

1. Review CONSULTANT contracts prior to their execution.
2. Perform pre-award audit of CONSULTANTS' records and any subsequent cost audits as required.
3. Review progress of PROJECTS for compliance with current Federal and State Regulations.
4. Obtain Federal participation in the PROJECT costs by reviewing and approving payment requests for reimbursement submitted by the CITY.
5. Review and request Federal approval for changes to CONSULTANT contracts.
6. Return to CITY any excess funds that may be deposited by CITY with the STATE as the CITY's share of the STATE'S administrative costs and have not been used by the STATE for that purpose.

CITY SHALL:

1. In accordance with State and Federal laws and regulations, prepare and execute contracts with CONSULTANTS, subject to STATE and Federal Highway Administration approval.

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2. Direct CONSULTANTS to perform services necessary to design the bridges in compliance with STATE and Federal Highway Administration directives.
3. Submit monthly payment requests to STATE for reimbursement of PROJECT costs. In the event that the cost of the PROJECTS exceed the estimated cost, no further work shall be done or costs incurred until STATE receives from the Federal Highway Administration its authorization for such costs.
4. Keep STATE informed of progress of PROJECTS.

In consideration of these premises, it is mutually agreed that:

1. The Project Agreement to be entered into by and between the STATE and the Federal Highway Administration shall be incorporated in and made a part of this Agreement by reference and shall have the same force and effect as though fully written herein.
2. The STATE assumes no financial obligation or liability hereunder; the CITY assumes full responsibility for the PROJECTS. It is understood and agreed that the STATE'S participation is confined solely to securing of Federal Aid.
3. Any damages arising from the carrying out, in any respect, of this Agreement or any modification thereof, shall be solely the liability of CITY. CITY hereby agrees to save and hold harmless and indemnify from loss STATE, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provision of this Agreement by CITY, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by STATE, any of its departments, agencies, officers or employees shall include in the event of any action, but not limited to, court costs, expenses of litigation, and attorneys' fees incurred. CITY assumes the burden of proof that the above activity, condition, or event did not cause such cost, damage, or other damage.

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4. This Agreement shall remain in force and effect until the work embraced in the PROJECTS is completed, approved, and accepted by the Federal Highway Administration. In the event these PROJECTS are terminated prior to their completion, then this Agreement shall terminate when an accounting has been approved and accepted by the Federal Highway Administration, and the STATE has received all of its costs due under this Agreement.
5. This Intergovernmental Agreement shall be filed with the Secretary of State and shall become effective on the date provided herein, but in no event prior to the date it is filed with the Secretary of State.
6. Attachments A and B are authenticated copies of the resolutions of the Arizona Department of Transportation and the City of Phoenix, authorizing said parties to enter into this Agreement.
7. Attachments C and D are the written determinations of the attorneys for said parties that this Intergovernmental Agreement is in proper form and within the powers and authority granted to said parties under the laws of the State of Arizona.
8. All parties hereby are put on notice that this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes 38-511, the provisions of which are incorporated herein.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first herein written.


ARIZONA DEPARTMENT OF TRANSPORTATION

By: JB Mertz
Chief Deputy State Engineer

4/2/79
Date

CITY OF PHOENIX, a municipal corporation,

MARVIN A. ANDREWS
City Manager

By 
STREET TRANSPORTATION ADMINISTRATOR

ATTEST:

Spencer McKelton

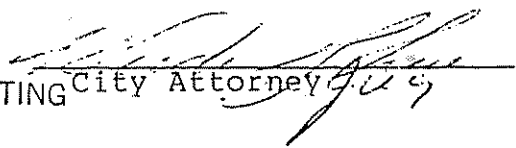
City Clerk

3034
CITY CLERK'S FILE

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INSERT ATTACHMENT "D" (City Attorney's Determination)

Approved as to form and within the power and authority granted to
the City of Phoenix under the laws of the State of Arizona.

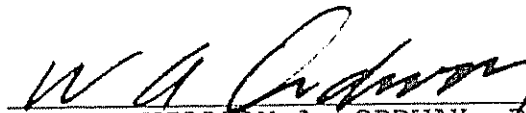

ACTING City Attorney

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ATTACHMENT "A"

R E S O L U T I O N

BE IT RESOLVED on this the 21st day of March,
that I, WILLIAM A. ORDWAY, the below undersigned Director,
Department of Transportation, have determined that it is in the best
interest of the State of Arizona that the Department of
Transportation, acting by and through the Highways Division, enter
into an Intergovernmental Agencies Agreement with the City of
Phoenix, Arizona for acquiring available Federal funds for the
design work to relace two bridges damaged by storms in the
February/March 1978 disaster.



WILLIAM A. ORDWAY, Director
ARIZONA DEPARTMENT
OF
TRANSPORTATION

ATTACHMENT "C"

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OFFICE OF THE
Attorney General

1801 WEST JEFFERSON STREET
FOURTH FLOOR
PHOENIX, ARIZONA 85007

ROBERT K. CORBIN
~~XXXXXXXXXXXX~~
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. 79-188 which is an agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 29th day of March, 1979.

ROBERT K. CORBIN
Attorney General

ALBERT MORGAN
Assistant Attorney General